

DISORDERLY CONDUCT AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Don L. Ipson

House Sponsor: Lee B. Perry

LONG TITLE

General Description:

This bill amends criminal provisions relating to disorderly conduct.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the elements of, and penalties for, disorderly conduct;
- ▶ provides increased penalties for violations that occur at an official meeting;
- ▶ repeals a criminal provision relating to disrupting legislative or official meetings;

and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-11-103, as last amended by Laws of Utah 2019, Chapter 339

36-11-401, as last amended by Laws of Utah 2019, Chapter 339

76-3-203.1, as last amended by Laws of Utah 2016, Chapter 130

76-3-203.3, as last amended by Laws of Utah 2007, Chapter 229

76-9-102, as last amended by Laws of Utah 2016, Chapter 245

29 **76-9-802**, as last amended by Laws of Utah 2009, Chapters 157 and 356

30 **76-9-902**, as enacted by Laws of Utah 2009, Chapter 86

31 REPEALS:

32 **76-8-304**, as last amended by Laws of Utah 1992, Chapter 30

34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **36-11-103** is amended to read:

36 **36-11-103. Licensing requirements.**

37 (1) (a) Before engaging in any lobbying, a lobbyist shall obtain a license from the
38 lieutenant governor by completing the form required by this section.

39 (b) The lieutenant governor shall issue licenses to qualified lobbyists.

40 (c) The lieutenant governor shall prepare a Lobbyist License Application Form that
41 includes:

42 (i) a place for the lobbyist's name and business address;

43 (ii) a place for the following information for each principal for whom the lobbyist
44 works or is hired as an independent contractor:

45 (A) the principal's name;

46 (B) the principal's business address;

47 (C) the name of each public official that the principal employs and the nature of the
48 employment with the public official; and

49 (D) the general purposes, interests, and nature of the principal;

50 (iii) a place for the name and address of the person who paid or will pay the lobbyist's
51 registration fee, if the fee is not paid by the lobbyist;

52 (iv) a place for the lobbyist to disclose:

53 (A) any elected or appointed position that the lobbyist holds in state or local
54 government, if any; and

55 (B) the name of each public official that the lobbyist employs and the nature of the

56 employment with the public official, if any;

57 (v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist
58 will be reimbursed; and

59 (vi) a certification to be signed by the lobbyist that certifies that the information
60 provided in the form is true, accurate, and complete to the best of the lobbyist's knowledge and
61 belief.

62 (2) Each lobbyist who obtains a license under this section shall update the licensure
63 information when the lobbyist accepts employment for lobbying by a new client.

64 (3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a
65 lobbying license to an applicant who:

66 (i) files an application with the lieutenant governor that contains the information
67 required by this section;

68 (ii) completes the training required by Section 36-11-307; and

69 (iii) pays a \$60 filing fee.

70 (b) A license entitles a person to serve as a lobbyist on behalf of one or more principals
71 and expires on December 31 each year.

72 (4) (a) The lieutenant governor may disapprove an application for a lobbying license:

73 (i) if the applicant has been convicted of violating Section 76-8-103, 76-8-107,
74 76-8-108, or 76-8-303 within five years before the date of the lobbying license application;

75 (ii) if ~~the applicant has been convicted of violating Section 76-8-104 or 76-8-304~~,
76 within one year before the date of the lobbying license application~~;~~, the applicant is convicted
77 of a violation of:

78 (A) Section 76-8-104; or

79 (B) Section 76-9-102, if the violation is a misdemeanor that occurs at an official
80 meeting;

81 (iii) during the term of any suspension imposed under Section 36-11-401;

82 (iv) if the applicant has not complied with Subsection 36-11-307(6);

83 (v) during the term of a suspension imposed under Subsection 36-11-501(3);

84 (vi) if the lobbyist fails to pay a fine imposed under Subsection 36-11-501(3);

85 (vii) if, within one year before the date of the lobbying license application, the
86 applicant has been found to have willingly and knowingly:

87 (A) violated this section or Section 36-11-201, 36-11-301, 36-11-302, 36-11-303,
88 36-11-304, 36-11-305, or 36-11-403; or

89 (B) filed a document required by this chapter that the lobbyist knew contained
90 materially false information or omitted material information; or

91 (viii) if the applicant is prohibited from becoming a lobbyist under Title 67, Chapter
92 24, Lobbying Restrictions Act.

93 (b) An applicant may appeal the disapproval in accordance with the procedures
94 established by the lieutenant governor under this chapter and Title 63G, Chapter 4,
95 Administrative Procedures Act.

96 (5) The lieutenant governor shall deposit each license fee into the General Fund as a
97 dedicated credit to be used by the lieutenant governor to pay the cost of administering the
98 license program described in this section.

99 (6) A principal need not obtain a license under this section, but if the principal makes
100 expenditures to benefit a public official without using a lobbyist as an agent to confer those
101 benefits, the principal shall disclose those expenditures as required by Section 36-11-201.

102 (7) Government officers need not obtain a license under this section, but shall disclose
103 any expenditures made to benefit public officials as required by Section 36-11-201.

104 (8) Surrender, cancellation, or expiration of a lobbyist license does not absolve the
105 lobbyist of the duty to file the financial reports if the lobbyist is otherwise required to file the
106 reports by Section 36-11-201.

107 Section 2. Section 36-11-401 is amended to read:

108 **36-11-401. Penalties.**

109 (1) Any person who intentionally violates Section 36-11-103, 36-11-201, 36-11-301,

110 36-11-302, 36-11-303, 36-11-304, 36-11-305, or 36-11-403, is subject to the following
111 penalties:

- 112 (a) an administrative penalty of up to \$1,000 for each violation; and
- 113 (b) for each subsequent violation of that same section within 24 months, either:
 - 114 (i) an administrative penalty of up to \$5,000; or
 - 115 (ii) suspension of the violator's lobbying license for up to one year, if the person is a
116 lobbyist.

117 (2) Any person who intentionally fails to file a financial report required by this chapter,
118 omits material information from a license application form or financial report, or files false
119 information on a license application form or financial report, is subject to the following
120 penalties:

- 121 (a) an administrative penalty of up to \$1,000 for each violation; or
- 122 (b) suspension of the violator's lobbying license for up to one year, if the person is a
123 lobbyist.

124 (3) Any person who intentionally fails to file a financial report required by this chapter
125 on the date that it is due shall, in addition to the penalties, if any, imposed under Subsection (1)
126 or (2), pay a penalty of up to \$50 per day for each day that the report is late.

127 (4) (a) When a lobbyist is convicted of violating Section 76-8-103, 76-8-107, 76-8-108,
128 or 76-8-303, the lieutenant governor shall suspend the lobbyist's license for up to five years
129 from the date of the conviction.

130 (b) When a lobbyist is convicted of violating Section 76-8-104 [~~or 76-8-304~~], or
131 Section 76-9-102 if the violation is a misdemeanor that occurs at an official meeting, the
132 lieutenant governor shall suspend a lobbyist's license for up to one year from the date of
133 conviction.

134 (5) (a) Any person who intentionally violates Section 36-11-301, 36-11-302, or
135 36-11-303 is guilty of a class B misdemeanor.

136 (b) The lieutenant governor shall suspend the lobbyist license of any person convicted

137 under any of these sections for up to one year.

138 (c) The suspension shall be in addition to any administrative penalties imposed by the
139 lieutenant governor under this section.

140 (d) Any person with evidence of a possible violation of this chapter may submit that
141 evidence to the lieutenant governor for investigation and resolution.

142 (6) Nothing in this chapter creates a third-party cause of action or appeal rights.

143 Section 3. Section **76-3-203.1** is amended to read:

144 **76-3-203.1. Offenses committed in concert with two or more persons or in**
145 **relation to a criminal street gang -- Notice -- Enhanced penalties.**

146 (1) As used in this section:

147 (a) "Criminal street gang" has the same definition as in Section [76-9-802](#).

148 (b) "In concert with two or more persons" means:

149 (i) the defendant was aided or encouraged by at least two other persons in committing
150 the offense and was aware of this aid or encouragement; and

151 (ii) each of the other persons:

152 (A) was physically present; or

153 (B) participated as a party to any offense listed in Subsection (5).

154 (c) "In concert with two or more persons" means, regarding intent:

155 (i) other persons participating as parties need not have the intent to engage in the same
156 offense or degree of offense as the defendant; and

157 (ii) a minor is a party if the minor's actions would cause the minor to be a party if the
158 minor were an adult.

159 (2) A person who commits any offense listed in Subsection (5) is subject to an
160 enhanced penalty for the offense as provided in Subsection (4) if the trier of fact finds beyond a
161 reasonable doubt that the person acted:

162 (a) in concert with two or more persons;

163 (b) for the benefit of, at the direction of, or in association with any criminal street gang

164 as defined in Section 76-9-802; or

165 (c) to gain recognition, acceptance, membership, or increased status with a criminal
166 street gang as defined in Section 76-9-802.

167 (3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to
168 be subscribed upon the information or indictment notice that the defendant is subject to the
169 enhanced penalties provided under this section.

170 (4) The enhanced penalty for a:

171 (a) class B misdemeanor is a class A misdemeanor;

172 (b) class A misdemeanor is a third degree felony;

173 (c) third degree felony is a second degree felony;

174 (d) second degree felony is a first degree felony; and

175 (e) first degree felony is an indeterminate prison term of not less than five years in
176 addition to the statutory minimum prison term for the offense, and which may be for life.

177 (5) Offenses referred to in Subsection (2) are:

178 (a) any criminal violation of the following chapters of Title 58, Occupations and
179 Professions:

180 (i) Chapter 37, Utah Controlled Substances Act;

181 (ii) Chapter 37a, Utah Drug Paraphernalia Act;

182 (iii) Chapter 37b, Imitation Controlled Substances Act; or

183 (iv) Chapter 37c, Utah Controlled Substance Precursor Act;

184 (b) assault and related offenses under Title 76, Chapter 5, Part 1, Assault and Related
185 Offenses;

186 (c) any criminal homicide offense under Title 76, Chapter 5, Part 2, Criminal
187 Homicide;

188 (d) kidnapping and related offenses under Title 76, Chapter 5, Part 3, Kidnapping,
189 Trafficking, and Smuggling;

190 (e) any felony sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses;

- 191 (f) sexual exploitation of a minor as defined in Section 76-5b-201;
- 192 (g) any property destruction offense under Title 76, Chapter 6, Part 1, Property
193 Destruction;
- 194 (h) burglary, criminal trespass, and related offenses under Title 76, Chapter 6, Part 2,
195 Burglary and Criminal Trespass;
- 196 (i) robbery and aggravated robbery under Title 76, Chapter 6, Part 3, Robbery;
- 197 (j) theft and related offenses under Title 76, Chapter 6, Part 4, Theft, or Part 6, Retail
198 Theft;
- 199 (k) any fraud offense under Title 76, Chapter 6, Part 5, Fraud, except Sections
200 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513,
201 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;
- 202 (l) any offense of obstructing government operations under Title 76, Chapter 8, Part 3,
203 Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, [~~76-8-304~~],
204 ~~76-8-307~~, 76-8-308, and 76-8-312;
- 205 (m) tampering with a witness or other violation of Section 76-8-508;
- 206 (n) retaliation against a witness, victim, informant, or other violation of Section
207 76-8-508.3;
- 208 (o) extortion or bribery to dismiss criminal proceeding as defined in Section 76-8-509;
- 209 (p) any explosives offense under Title 76, Chapter 10, Part 3, Explosives;
- 210 (q) any weapons offense under Title 76, Chapter 10, Part 5, Weapons;
- 211 (r) pornographic and harmful materials and performances offenses under Title 76,
212 Chapter 10, Part 12, Pornographic and Harmful Materials and Performances;
- 213 (s) prostitution and related offenses under Title 76, Chapter 10, Part 13, Prostitution;
- 214 (t) any violation of Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;
- 215 (u) any violation of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- 216 (v) communications fraud as defined in Section 76-10-1801;
- 217 (w) any violation of Title 76, Chapter 10, Part 19, Money Laundering and Currency

218 Transaction Reporting Act; and

219 (x) burglary of a research facility as defined in Section 76-10-2002.

220 (6) It is not a bar to imposing the enhanced penalties under this section that the persons
221 with whom the actor is alleged to have acted in concert are not identified, apprehended,
222 charged, or convicted, or that any of those persons are charged with or convicted of a different
223 or lesser offense.

224 Section 4. Section 76-3-203.3 is amended to read:

225 **76-3-203.3. Penalty for hate crimes -- Civil rights violation.**

226 As used in this section:

227 (1) "Primary offense" means those offenses provided in Subsection (4).

228 (2) (a) A person who commits any primary offense with the intent to intimidate or
229 terrorize another person or with reason to believe that his action would intimidate or terrorize
230 that person is subject to Subsection (2)(b).

231 (b) (i) A class C misdemeanor primary offense is a class B misdemeanor; and

232 (ii) a class B misdemeanor primary offense is a class A misdemeanor.

233 (3) "Intimidate or terrorize" means an act which causes the person to fear for his
234 physical safety or damages the property of that person or another. The act must be
235 accompanied with the intent to cause or has the effect of causing a person to reasonably fear to
236 freely exercise or enjoy any right secured by the Constitution or laws of the state or by the
237 Constitution or laws of the United States.

238 (4) Primary offenses referred to in Subsection (1) are the misdemeanor offenses for:

239 (a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106,
240 76-5-107, and 76-5-108;

241 (b) any misdemeanor property destruction offense under Sections 76-6-102 and
242 76-6-104, and Subsection 76-6-106(2)(b);

243 (c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;

244 (d) any misdemeanor theft offense under Section 76-6-412;

245 (e) any offense of obstructing government operations under Sections 76-8-301,
246 76-8-302, ~~[76-8-304,]~~ 76-8-305, 76-8-306, 76-8-307, 76-8-308, and 76-8-313;

247 (f) any offense of interfering or intending to interfere with activities of colleges and
248 universities under Title 76, Chapter 8, Part 7, Colleges and Universities;

249 (g) any misdemeanor offense against public order and decency as defined in Title 76,
250 Chapter 9, Part 1, Breaches of the Peace and Related Offenses;

251 (h) any telephone abuse offense under Title 76, Chapter 9, Part 2, Telephone Abuse;

252 (i) any cruelty to animals offense under Section 76-9-301; ~~[and]~~

253 (j) any weapons offense under Section 76-10-506~~[-];~~ or

254 (k) a violation of Section 76-9-102, if the violation occurs at an official meeting.

255 (5) This section does not affect or limit any individual's constitutional right to the
256 lawful expression of free speech or other recognized rights secured by the Constitution or laws
257 of the state or by the Constitution or laws of the United States.

258 Section 5. Section 76-9-102 is amended to read:

259 **76-9-102. Disorderly conduct.**

260 (1) ~~[A person]~~ As used in this section:

261 (a) "Official meeting" means:

262 (i) a meeting, as defined in Section 52-4-103;

263 (ii) a meeting of the Legislature, the Utah Senate, the Utah House of Representatives, a
264 legislative caucus, or any committee, task force, working group, or other organization in the
265 state legislative branch; or

266 (iii) a meeting of an entity created by the Utah Constitution, Utah Code, Utah
267 administrative rule, legislative rule, or a written rule or policy of the Legislative Management
268 Committee.

269 (b) "Public place" means a place to which the public or a substantial group of the
270 public has access, including:

271 (i) streets or highways; and

272 (ii) the common areas of schools, hospitals, apartment houses, office buildings, public
 273 buildings, public facilities, transport facilities, and shops.

274 (2) An individual is guilty of disorderly conduct if:

275 (a) the ~~[person]~~ individual refuses to comply with the lawful order of a law
 276 enforcement officer to move from a public place or an official meeting, or knowingly creates a
 277 hazardous or physically offensive condition, by any act ~~[which]~~ that serves no legitimate
 278 purpose; or

279 (b) intending to cause public inconvenience, annoyance, or alarm, or recklessly
 280 creating a risk ~~[thereof]~~ of public inconvenience, annoyance, or alarm, the person:

281 (i) engages in fighting or in violent, tumultuous, or threatening behavior;

282 (ii) makes unreasonable noises in a public place or an official meeting;

283 (iii) makes unreasonable noises in a private place which can be heard in a public place
 284 or an official meeting; or

285 (iv) obstructs vehicular or pedestrian traffic in a public place or an official meeting.

286 ~~[(2) "Public place," for the purpose of this section, means any place to which the public~~
 287 ~~or a substantial group of the public has access and includes but is not limited to streets,~~
 288 ~~highways, and the common areas of schools, hospitals, apartment houses, office buildings,~~
 289 ~~public buildings and facilities, transport facilities, and shops.]~~

290 (3) The mere carrying or possession of a holstered or encased firearm, whether visible
 291 or concealed, without additional behavior or circumstances that would cause a reasonable
 292 person to believe the holstered or encased firearm was carried or possessed with criminal
 293 intent, does not constitute a violation of this section. Nothing in this Subsection (3) may limit
 294 or prohibit a law enforcement officer from approaching or engaging any person in a voluntary
 295 conversation.

296 ~~[(4) Disorderly conduct is a class C misdemeanor if the offense continues after a~~
 297 ~~request by a person to desist. Otherwise it is an infraction.]~~

298 (4) An individual who violates this section is guilty of:

- 299 (a) except as provided in Subsection (4)(b), (c), or (d), an infraction;
- 300 (b) except as provided in Subsection (4)(c) or (d), a class C misdemeanor, if the
- 301 violation occurs after the individual has been asked to cease conduct prohibited under this
- 302 section;
- 303 (c) except as provided in Subsection (4)(d), a class B misdemeanor, if:
- 304 (i) the violation occurs after the individual has been asked to cease conduct prohibited
- 305 under this section; and
- 306 (ii) within five years before the day on which the individual violates this section, the
- 307 individual was previously convicted of a violation of this section; or
- 308 (d) a class A misdemeanor, if:
- 309 (i) the violation occurs after the individual has been asked to cease conduct prohibited
- 310 under this section; and
- 311 (ii) within five years before the day on which the individual violates this section, the
- 312 individual was previously convicted of two or more violations of this section.

313 Section 6. Section **76-9-802** is amended to read:

314 **76-9-802. Definitions.**

315 As used in this part:

316 (1) "Criminal street gang" means an organization, association in fact, or group of three

317 or more persons, whether operated formally or informally:

318 (a) that is currently in operation;

319 (b) that has as one of its primary activities the commission of one or more predicate

320 gang crimes;

321 (c) that has, as a group, an identifying name or identifying sign or symbol, or both; and

322 (d) whose members, acting individually or in concert with other members, engage in or

323 have engaged in a pattern of criminal gang activity.

324 (2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of

325 harm for the purpose of causing an individual to act or refrain from acting.

- 326 (3) "Minor" means a person younger than 18 years of age.
- 327 (4) "Pattern of criminal gang activity" means:
- 328 (a) committing, attempting to commit, conspiring to commit, or soliciting the
- 329 commission of two or more predicate gang crimes within five years;
- 330 (b) the predicate gang crimes are:
- 331 (i) committed by two or more persons; or
- 332 (ii) committed by an individual at the direction of, or in association with a criminal
- 333 street gang; and
- 334 (c) the criminal activity was committed with the specific intent to promote, further, or
- 335 assist in any criminal conduct by members of the criminal street gang.
- 336 (5) (a) "Predicate gang crime" means any of the following offenses:
- 337 (i) Title 41, Chapter 1a, Motor Vehicle Act:
- 338 (A) Section 41-1a-1313, regarding possession of a motor vehicle without an
- 339 identification number;
- 340 (B) Section 41-1a-1315, regarding false evidence of title and registration;
- 341 (C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;
- 342 (D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an
- 343 identification number; or
- 344 (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number;
- 345 (ii) any criminal violation of the following provisions:
- 346 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
- 347 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 348 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
- 349 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
- 350 (iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;
- 351 (iv) Title 76, Chapter 5, Part 2, Criminal Homicide;
- 352 (v) Sections 76-5-301 through 76-5-304, which address kidnapping and related

- 353 offenses;
- 354 (vi) any felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;
- 355 (vii) Title 76, Chapter 6, Part 1, Property Destruction;
- 356 (viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;
- 357 (ix) Title 76, Chapter 6, Part 3, Robbery;
- 358 (x) any felony offense under Title 76, Chapter 6, Part 4, Theft, or under Title 76,
- 359 Chapter 6, Part 6, Retail Theft, except Sections [76-6-404.5](#), [76-6-405](#), [76-6-407](#), [76-6-408](#),
- 360 [76-6-409](#), [76-6-409.1](#), [76-6-409.3](#), [76-6-409.6](#), [76-6-409.7](#), [76-6-409.8](#), [76-6-409.9](#), [76-6-410](#),
- 361 and [76-6-410.5](#);
- 362 (xi) Title 76, Chapter 6, Part 5, Fraud, except Sections [76-6-504](#), [76-6-505](#), [76-6-507](#),
- 363 [76-6-508](#), [76-6-509](#), [76-6-510](#), [76-6-511](#), [76-6-512](#), [76-6-513](#), [76-6-514](#), [76-6-516](#), [76-6-517](#),
- 364 [76-6-518](#), and [76-6-520](#);
- 365 (xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;
- 366 (xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except
- 367 Sections [76-8-302](#), [76-8-303](#), [76-8-304](#), [76-8-307](#), [76-8-308](#), and [76-8-312](#);
- 368 (xiv) Section [76-8-508](#), which includes tampering with a witness;
- 369 (xv) Section [76-8-508.3](#), which includes retaliation against a witness or victim;
- 370 (xvi) Section [76-8-509](#), which includes extortion or bribery to dismiss a criminal
- 371 proceeding;
- 372 (xvii) a misdemeanor violation of Section [76-9-102](#), if the violation occurs at an
- 373 official meeting;
- 374 [~~xvii~~] (xviii) Title 76, Chapter 10, Part 3, Explosives;
- 375 [~~xviii~~] (xix) Title 76, Chapter 10, Part 5, Weapons;
- 376 [~~xix~~] (xx) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;
- 377 [~~xx~~] (xxi) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- 378 [~~xxi~~] (xxii) Section [76-10-1801](#), which addresses communications fraud;
- 379 [~~xxii~~] (xxiii) Title 76, Chapter 10, Part 19, Money Laundering and Currency

380 Transaction Reporting Act; or
381 [~~xxiii~~] (xxiv) Section 76-10-2002, which addresses burglary of a research facility.
382 (b) "Predicate gang crime" also includes:
383 (i) any state or federal criminal offense that by its nature involves a substantial risk that
384 physical force may be used against another in the course of committing the offense; and
385 (ii) any felony violation of a criminal statute of any other state, the United States, or
386 any district, possession, or territory of the United States which would constitute a violation of
387 any offense in Subsection (4)(a) if committed in this state.
388 Section 7. Section 76-9-902 is amended to read:
389 **76-9-902. Definitions.**
390 As used in this part:
391 (1) "Criminal street gang" means an organization, association in fact, or group of three
392 or more persons, whether operated formally or informally:
393 (a) that is currently in operation;
394 (b) that has as one of its substantial activities the commission of one or more predicate
395 gang crimes;
396 (c) that has, as a group, an identifying name or an identifying sign or symbol, or both;
397 and
398 (d) whose members, acting individually or in concert with other members, engage in or
399 have engaged in a pattern of criminal gang activity.
400 (2) "Gang loitering" means a person remains in one place under circumstances that
401 would cause a reasonable person to believe that the purpose or effect of that behavior is to
402 enable or facilitate a criminal street gang to:
403 (a) establish control over one or more identifiable areas;
404 (b) intimidate others from entering those areas; or
405 (c) conceal illegal activities.
406 (3) "Pattern of criminal gang activity" means committing, attempting to commit,

407 conspiring to commit, or soliciting the commission of two or more predicate gang crimes
408 within five years, if the predicate gang crimes are committed:

- 409 (a) (i) by two or more persons; or
- 410 (ii) by an individual at the direction of or in association with a criminal street gang; and
- 411 (b) with the specific intent to promote, further, or assist in any criminal conduct by
412 members of a criminal street gang.

413 (4) (a) "Predicate gang crime" means any of the following offenses:

- 414 (i) any criminal violation of:
 - 415 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
 - 416 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
 - 417 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
 - 418 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
- 419 (ii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;
- 420 (iii) Title 76, Chapter 5, Part 2, Criminal Homicide;
- 421 (iv) Sections 76-5-301 through 76-5-304, which address kidnapping and related
422 offenses;
- 423 (v) any felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;
- 424 (vi) Title 76, Chapter 6, Part 1, Property Destruction;
- 425 (vii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;
- 426 (viii) Title 76, Chapter 6, Part 3, Robbery;
- 427 (ix) any felony offense under Title 76, Chapter 6, Part 4, Theft, except Sections
428 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6,
429 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;
- 430 (x) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507,
431 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517,
432 76-6-518, and 76-6-520;
- 433 (xi) Title 76, Chapter 6, Part 11, Identity Fraud Act;

- 434 (xii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections
435 76-8-302, 76-8-303, [~~76-8-304~~], 76-8-307, 76-8-308, and 76-8-312;
- 436 (xiii) Section 76-8-508, which includes tampering with a witness;
- 437 (xiv) Section 76-8-508.3, which includes retaliation against a witness or victim;
- 438 (xv) Section 76-8-509, which includes extortion or bribery to dismiss a criminal
439 proceeding;
- 440 (xvi) a misdemeanor violation of Section 76-9-102, if the violation occurs at an official
441 meeting;
- 442 [~~(xvi)~~] (xvii) Title 76, Chapter 10, Part 3, Explosives;
- 443 [~~(xvii)~~] (xviii) Title 76, Chapter 10, Part 5, Weapons;
- 444 [~~(xviii)~~] (xix) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;
- 445 [~~(xix)~~] (xx) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- 446 [~~(xx)~~] (xxi) Section 76-10-1801, which addresses communications fraud;
- 447 [~~(xxi)~~] (xxii) Title 76, Chapter 10, Part 19, Money Laundering and Currency
448 Transaction Reporting Act;
- 449 [~~(xxii)~~] (xxiii) Section 76-10-2002, which addresses burglary of a research facility; and
- 450 [~~(xxiii)~~] (xxiv) Title 41, Chapter 1a, Motor Vehicle Act:
- 451 (A) Section 41-1a-1313, regarding possession of a motor vehicle without an
452 identification number;
- 453 (B) Section 41-1a-1315, regarding false evidence of title and registration;
- 454 (C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;
- 455 (D) Section 41-1a-1317, regarding selling or buying a vehicle without an identification
456 number; and
- 457 (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number.
- 458 (b) "Predicate gang crime" also includes:
- 459 (i) any state or federal criminal offense that by its nature involves a substantial risk that
460 physical force may be used against another in the course of committing the offense; and

461 (ii) any felony violation of a criminal statute of any other state, the United States, or
462 any district, possession, or territory of the United States which would constitute any offense in
463 Subsection (4)(a) if committed in this state.

464 (5) (a) "Public place" means any location or structure to which the public or a
465 substantial group of the public has access, and includes:

- 466 (i) a sidewalk, street, or highway;
- 467 (ii) a public park, public recreation facility, or any other area open to the public;
- 468 (iii) a shopping mall, sports facility, stadium, arena, theater, movie house, or
469 playhouse, or the parking lot or structure adjacent to any of these; and
- 470 (iv) the common areas of schools, hospitals, apartment houses, office buildings,
471 transport facilities, and businesses.

472 (b) "Public place" includes the lobbies, hallways, elevators, restaurants and other
473 dining areas, and restrooms of any of the locations or structures under Subsection (5)(a).

474 **Section 8. Repealer.**

475 This bill repeals:

476 Section **76-8-304, Disturbing Legislature or official meeting.**